

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES

March 4, 2021

11:07 a.m.

MEMBERS PRESENT

Representative Geran Tarr, Chair
Representative Louise Stutes, Vice Chair
Representative Jonathan Kreiss-Tomkins
Representative Andi Story
Representative Dan Ortiz
Representative Sarah Vance
Representative Kevin McCabe

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 80

"An Act establishing the sport fishing hatchery facilities account; establishing the sport fishing facility surcharge; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 115

"An Act relating to aquatic farming and hatchery site leases; and requiring the director of the division of lands to provide the legislature with an annual report relating to aquatic farming and hatchery site leases."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 80

SHORT TITLE: SPT FSH HATCHERY FACIL ACCT; SURCHARGE

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	FSH, FIN
02/23/21	(H)	FSH AT 10:00 AM GRUENBERG 120
02/23/21	(H)	Heard & Held

02/23/21	(H)	MINUTE (FSH)
02/25/21	(H)	FSH AT 10:00 AM GRUENBERG 120
02/25/21	(H)	-- MEETING CANCELED --
03/02/21	(H)	FSH AT 10:00 AM GRUENBERG 120
03/02/21	(H)	Heard & Held
03/02/21	(H)	MINUTE (FSH)
03/04/21	(H)	FSH AT 11:00 AM GRUENBERG 120

BILL: HB 115

SHORT TITLE: AQUATIC FARMING & HATCHERY SITE LEASES

SPONSOR(s): STORY

02/24/21	(H)	READ THE FIRST TIME - REFERRALS
02/24/21	(H)	FSH, RES
03/04/21	(H)	FSH AT 11:00 AM GRUENBERG 120

WITNESS REGISTER

DOUG VINCENT-LANG, Commissioner
Alaska Department of Fish and Game
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 80.

REPRESENTATIVE ANDI STORY
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 115 as prime sponsor.

GREG SMITH, Staff
Representative Andi Story
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided a sectional analysis of HB 115 on behalf of Representative Story, prime sponsor.

HEATHER MCCARTY, Chair
Mariculture Task Force
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 115.

ERIC WYATT
Ketchikan, Alaska

POSITION STATEMENT: Testified in support of HB 115.

TREVOR SANDE
Marble Seafoods

Ketchikan, Alaska

POSITION STATEMENT: Testified in support of HB 115.

MARKOS SCHEER

Premium Aquatics

Shoreline, Washington

POSITION STATEMENT: Testified in support of HB 115

ACTION NARRATIVE

[11:07:03 AM](#)

CHAIR GERAN TARR called the House Special Committee on Fisheries meeting to order at 11:07 a.m. Representatives Stutes, Kreiss-Tompkins, Story, Ortiz, Vance, McCabe, and Tarr were present at the call to order.

HB 80-SPT FSH HATCHERY FACIL ACCT; SURCHARGE

[11:09:51 AM](#)

CHAIR TARR announced that the first order of business would be HOUSE BILL NO. 80, "An Act establishing the sport fishing hatchery facilities account; establishing the sport fishing facility surcharge; and providing for an effective date."

[11:10:12 AM](#)

REPRESENTATIVE KREISS-TOMKINS referred to Section 2 regarding fishing license reciprocity between Yukon [Territory] and Alaska allowing Yukon residents to obtain licensing at resident rates and suggested that Yukon is getting the better deal. He asked Commissioner Vincent-Lang if he had data reflecting the impact of the discount and how many Alaskans take advantage of the reciprocal resident licensing discount.

[11:11:27 AM](#)

DOUG VINCENT-LANG, Commissioner, Alaska Department of Fish and Game, answered that he did not have the requested data readily available. He offered that the topic had come up throughout the years between the premier of Yukon and the governor of Alaska. He stated that the matter had not been addressed by the current administration, and the policy exists as a "good neighbor policy." He offered to provide the requested data and agreed with Representative Kreiss-Tompkins that access to Alaska's

saltwater fisheries [by Yukoners] was the more desirable benefit of the policy.

REPRESENTATIVE KREISS-TOMKINS agreed with the sentiment of a good neighbor policy due to the geography of Southeast Alaska and residents' access to the rest of the state and asked the commissioner to provide foregone revenues to understand the cost benefits of the "good neighbor policy".

[11:13:07 AM](#)

REPRESENTATIVE VANCE recalled that the reciprocity language had not been included in a previous version of the proposed bill and questioned the value of including such reciprocity given her belief that Alaska was not in a strong position for negotiation and that Alaska was experiencing a lack of reciprocity in other areas affecting communities in Alaska.

COMMISSIONER VINCENT-LANG suggested that a minor change in language had clarified the intent of the bill to ensure that resident rate licensing fees offered to Yukoners would include the surcharge, which may not have been clear in a previous version of the bill.

REPRESENTATIVE VANCE asked if there exist other areas of negotiation, including treaties, that pose a strong need to offer [Yukoners] a nonresident discount.

COMMISSIONER VINCENT-LANG offered his understanding that those needs are a policy decision between the governor and Yukon, and that he could speak only to the impacts of such decisions.

[11:15:23 AM](#)

REPRESENTATIVE ORTIZ asked whether a hypothetical conceptual amendment to Section 1, on page 1, line 9 changing the words "operation of the department's sport fish hatchery facilities and sport fishing stock", by replacing "fishing stock" with the word "fish" would change the intent of the bill.

COMMISSIONER VINCENT-LANG suggested that there may exist confusion about what a sport fish hatchery does. He exemplified that a sportfish hatchery in Fairbanks produces fish primarily for lakes. He stated that the Jack Hernandez Hatchery in Southcentral produces fish for both lakes and saltwater releases. He stated that Douglas Island Pink and Chum (DIPAC) in Southeast Alaska produces both fresh water and salt water

fish. He stated his opinion that including the word "stock" would not affect the intent of the surcharge for the maintenance and operations of hatcheries.

REPRESENTATIVE ORTIZ clarified his question, which he was asking on behalf of a constituent, whether changing the words "sport fishing stock enhancement" to "sport fish enhancement" [would change the intent of the bill].

COMMISSIONER VINCENT-LANG stated that he had no problem with the suggested change to the language in the bill.

11:18:10 AM

REPRESENTATIVE MCCABE referred to Section 2, which read: "If the commissioner determines that residents of the state are entitled to obtain licenses for sport fishing, including sport fishing for anadromous king salmon, in Yukon, Canada". He stated that currently one may not drive there; therefore, the [reciprocated licensing benefit to Alaskans] would be zero.

COMMISSIONER VINCENT-LANG stated that the determination is vested at his discretion; however, he would request a conversation with the governor regarding policy with our neighbors and that decisions predicated on this policy may have broader implications on other policies.

REPRESENTATIVE MCCABE asked whether the commissioner would have an estimate between 500 to 10,000 Yukon residents [benefitting from the policy].

11:19:28 AM

COMMISSIONER VINCENT-LANG estimated the number to be in the hundreds, not tens of thousands.

11:19:54 AM

CHAIR TARR noted that in the committee packet were two amendments. The first was Amendment 1, labeled 32-GH1609\A.4, Bullard, 2/24/21, which read as follows:

Page 1, lines 8 - 9:

Delete "to ongoing maintenance and operation of"

Insert "equally between"

Page 1, line 10:

Delete "intended to directly benefit license purchasers"

Insert "projects for ongoing maintenance and operation and for the direct benefit of sport fishing license holders"

CHAIR TARR noted that Amendment 1 had been submitted by Representative Ortiz.

[11:20:06 AM](#)

REPRESENTATIVE ORTIZ stated his intention to revise the amendment after consultation with the department and offer it at a later time.

[11:20:44 AM](#)

CHAIR TARR moved on to Amendment 2.

[11:20:54 AM](#)

REPRESENTATIVE STUTES moved to adopt Amendment 2, labeled 32-GH1609\A.5, Bullard, 3/3/21, which read as follows:

Page 2, line 21:

Delete "4"

Insert "6.50"

Page 2, line 22:

Delete "4"

Insert "6.50"

Page 2, line 23:

Delete "4"

Insert "6.50"

Page 2, line 24:

Delete "25"

Insert "27.50"

Page 2, line 25:

Delete "20"

Insert "22.50"

Page 2, line 26:

Delete "10"

Insert "12.50"

Page 2, line 27:

Delete "5"

Insert "7.50"

Page 2, line 28:

Delete "40"

Insert "42.50"

Page 2, lines 29 - 30:

Delete all material.

Renumber the following paragraph accordingly.

Page 2, line 31:

Delete "4"

Insert "6.50"

CHAIR TARR objected for the purposes of discussion.

REPRESENTATIVE STUTES offered a summary description of the proposed amendment as follows:

Amendment 2 meets the department's proposal halfway. Instead of reinstating the surcharge with a reduction of \$ 5.00, this amendment proposes a reduction of only \$ 2.50. This amount is what the committee passed last year, and it remained in the bill until it died in its final committee of referral in the other body. I believe this amendment reflects a delicate balance of reducing the surcharge, as the bonding has been paid for the Ruth Burnett and the ... William Jack Hernandez hatcheries, while still retaining the necessary revenue for enhancement projects. The addition of the \$ 2.50 back into this bill will raise over a million dollars in additional revenue that is badly needed to support the activities of sports anglers. I would note that the deletion of the special nonresident military small game and sport fishing license on page 2, lines 10 and 11 of the amendment is a housekeeping measure at the request of the department. They no longer offer this license and request that it be removed from the bill. I would also remind members ... and the public ... that 82 percent of the surcharge revenue is derived from nonresidents.

11:22:32 AM

REPRESENTATIVE MCCABE stated his interest in Amendment 2, provided that Amendment 1 should not pass. He asked whether Amendment 1 would be revised, stating his view that amendment 1 would blatantly push money to a Southeast hatchery when it is not needed, and that the two larger hatcheries are the facilities most in need due to the larger populations served.

11:23:21 AM

The committee took an at-ease from 11:23 a.m. to 11:29 a.m.

11:29:07 AM

CHAIR TARR called the meeting back to order and clarified that the committee was still considering Amendment 2, which would "split the difference" in the proposed restoration of the surcharge.

11:29:43 AM

REPRESENTATIVE ORTIZ stated that 82 percent of the revenues are [derived] from nonresident fees, and his anecdotal interactions with charter operators and lodges in his region revealed that [nonresident anglers] have no concern whether the surcharge is \$2.50 or \$5.00, and the guests of operators have traveled great distances to take advantage of Alaska's resources. He asked why the \$5.00 should not be maintained when those affected have expressed no concern over the increase.

11:30:52 AM

COMMISSIONER VINCENT-LANG stated that he had participated in the original plan for the bond reimbursement through the surcharge, and it was his view that there existed a commitment to eliminate the surcharge once the bonds had been repaid. He stated that, while he is in a different role currently and now responsible for the maintenance of the hatcheries, he maintained his commitment to the agreement that the surcharge would be eliminated, or that it would not be charged indefinitely. He suggested his agreement with Representative Ortiz' statement that nonresidents would likely not take issue with the surcharge and that a balance of those priorities should be sought. He referenced the ruling in Carlson v. State in which it was ruled that it was unconstitutional to have a full surcharge for

nonresidents and a partial surcharge for residents. He expressed his appreciation that the need for funding the programs was one recognized by the maker of the amendment as needing support and cautioned that increasingly restrictive language would result in difficulties in meeting needs in different areas of the state. He suggested that the governor, [as sponsor of the bill through House Rules] should be consulted to arrive at a compromised language to balance the needs.

[11:32:38 AM](#)

REPRESENTATIVE ORTIZ allowed that there exist complexities in arriving at the best language for the bill and he stated that the department had experienced at least a 32 percent reduction in unrestricted general funds (UGF); however, it had been asked to do the same crucial mandate of managing the resource to the maximum sustained yield. He stated that the funding reduction was a hindrance to that mandate.

[11:34:06 AM](#)

REPRESENTATIVE MCCABE asked why there exists a difference in the bill proposed last year which included a list of programs not included in this version.

[11:34:40 AM](#)

COMMISSIONER VINCENT-LANG stated his understanding that this version of the bill contained the same programs as last year, and the legislative process of developing the language had led to what is currently before the committee.

[11:34:52 AM](#)

REPRESENTATIVE STUTES suggested that the list of programs that Representative McCabe had referred to had been left out of the version currently under consideration to allow the department to function with fewer restrictions and to allow the commissioner more discretion in the use of limited funds. She added that the reduction from \$5.00 to \$2.50 was a compromise to allow for some funds to be collected, while the reduction could be perceived as an act of good faith on the part of the commissioner having reduced the surcharge overall.

[11:35:59 AM](#)

CHAIR TARR suggested that the bill could be amended further to allow for another sunset on the surcharge, and that could be decided in the bill's next committee of referral.

[11:36:20 AM](#)

CHAIR TARR removed her objection to the motion to adopt Amendment 2. There being no further objection, Amendment 2 was adopted.

[11:36:33 AM](#)

CHAIR TARR announced that HB 80, as amended, was held over.

[11:36:51 AM](#)

The committee took an at-ease from 11:36 a.m. to 11:38 a.m.

HB 115-AQUATIC FARMING & HATCHERY SITE LEASES

[11:38:04 AM](#)

CHAIR TARR announced that the final order of business would be HOUSE BILL NO. 115,

"An Act relating to aquatic farming and hatchery site leases; and requiring the director of the division of lands to provide the legislature with an annual report relating to aquatic farming and hatchery site leases."

[11:38:18 AM](#)

REPRESENTATIVE ANDI STORY, Alaska State Legislature, provided introductory remarks on HB 115 as prime sponsor. She paraphrased the sponsor's statement [included in the committee packet], which read as follows [original punctuation provided]:

House Bill 115 simplifies the Department of Natural Resources (DNR) lease renewal process for aquatic farms to support Alaska's aquaculture sector while reducing administrative overhead. Examples of aquatic farm products include oysters, kelp, and other shellfish. HB115 makes the aquatic farm lease renewal process consistent with the renewal process for other DNR leases such as agricultural grazing, cabins and lodges, fish processing docks, and hydroelectric facilities. HB 115 does not affect salmon hatchery leases.

If enacted, HB115 would expedite the lease renewal process lowering the risk for businesses investment and reducing the workload of an overstretched state agency.

Current statute requires DNR to approve both initial and renewal aquatic farm leases using the same process, called a "945 authorization" (referring to the adjudication process found in AS 38.05.945), which takes around 200 days. HB115 would allow aquatic farm or hatchery renewals to be renewed in the same manner as most DNR leases like those listed above. This optional process allows the Director of the Division of Mining, Land and Water to renew a lease for a business in good standing and takes around 90 days. Applied to aquatic businesses, this option significantly shortens the renewal process while continuing appropriate regulatory oversight and public engagement.

HB115 also requires DNR to submit an initial report on the backlog of pending aquatic farm and hatchery site lease applications, estimate economic impacts of pending leases, and provide recommendations for streamlining the lease approval process. Subsequent annual reports would detail the application backlog and list the number of leases renewals that underwent the time-intensive lease renewal process.

This bill makes clear ecotourism and educational use of sites is allowed, and explicitly prohibits DNR from charging additional fees for persons using, or traversing, land leased for aquatic farms and hatchery sites.

I respectfully ask for your support in the passage of HB115.

[11:42:34 AM](#)

GREG SMITH, Staff, Representative Andi Story, Alaska State Legislature, on behalf of Representative Story, prime sponsor provided a sectional analysis of HB 115 as provided in the committee packet, which read as follows [original punctuation provided]:

Section 1: Amends AS 38.05.035(a) to require the Director of the Division of Mining, Land, and Water to submit an annual report to the legislature, primarily detailing aquatic farm and hatchery site leases pending with the department.

Section 2: Amends AS 38.05.070(e) by adding AS 38.05.083 (aquatic farm leasing statute) to the general leasing renewal section of law. This change allows the director to renew an aquatic farm lease under general lease renewal procedure. • A technical amendment on lines 20-21 specifies which types of leases may be renewed under this procedure.

Section 3: Amends AS 38.050.083(a) by deleting the term "or renew" from this section of statute. This removes the requirement that the renewal procedure for an aquatic farm or hatchery undergo the more detailed AS 38.05.945 adjudication process.

Section 4: Amends AS 38.050.083(b) by deleting the term "or renewal" from this section of statute. This removes the renewal procedure from the aquatic farm leasing statute.

Section 5: Adds new subsections to AS 38.050.083, including:

- (g): stating the Commissioner of the Department of Natural Resources may renew an aquatic farm lease under the general leasing renewal;
- (h): explicitly states ecotourism and educational purposes are allowable uses for aquatic farming and hatchery sites; and
- (i): explicitly prohibits the charging of an additional fee to aquatic farming and hatchery sites for the use or, or passage, across these sites.

Section 6: Adds a new section to uncodified law to require Director of the Division of Mining, Land, and Water to submit an initial report to the legislature detailing aquatic farm and hatchery site leases pending with the department, estimates of economic impact if all the leases were granted, and recommendations by DNR and other state agencies to streamline the lease approval process.

[11:45:12 AM](#)

HEATHER MCCARTY, Chair, Mariculture Task Force, provided background on the Mariculture Task Force, established in 2016, including its goal of creating a \$ 100 million industry over 20 years by developing the new industry in Alaska. She added that this process included identifying regulatory, statutory, economic, educational, and environmental as some of the industry's barriers and hurdles, among others. She stated that the task force developed a strategic plan and, in 2019, it began implementation plans to establish priorities among the barriers identified. She stated that one of the barriers identified by the task force was the primary permitting and renewals, for which there existed a large backlog. She added that the task force in cooperation with the Alaska executive branch helped to identify areas in statute that could improve the processes and work towards eliminating the backlogs. She lauded HB 115 as a step in the direction of better rules and better laws, and she said it would remove barriers to new and current participants in the industry. She added that the task force also supports the inclusion of ecotourism in the bill.

11:48:08 AM

REPRESENTATIVE VANCE asked Ms. McCarty to speak in more detail about the hurdles identified by the task force in the renewal process that included public testimony, and the reason for removing public testimony in the renewal process.

MS. MCCARTY answered that the biggest hurdle is the time [required for renewal] consisting of a year-and-a-half, compounded by the increases in new and renewed [leases]. She added that the public [input] process had occurred during the initial permitting and added that it is her understanding that there does not exist any intent to remove the public from the process.

11:49:56 AM

ERIC WYATT shared that he is a third-generation fisherman from Southeast and had diversified into aquatic farming 16 to 17 years ago, now with a focus on oyster farming. He stated his reasons for choosing to participate in the aquaculture industry were economic and environmental. He stated that his investment in aquaculture is substantial, and he attributed higher revenues as a [contributing factor to the cost of doing business]. He recalled his experience in renewal and the uncertainty of remaining in business for a period of over 18 months. He added that a farmer in good standing may experience an abbreviated

process; however, the renewal processing is intimidating, as is the process for transferring permitting. He stated his hope for continued growth despite the barriers. He added that he viewed ecotourism as a positive addition to the bill and that there exists consumer interest in the "green" industry.

[11:54:56 AM](#)

CHAIR TARR opened public testimony on HB 115.

[11:55:02 AM](#)

TREVOR SANDE, Marble Seafoods, stated that he had been following legislation pertaining to aquaculture closely and had applied for his business permit in 2010. He suggested that the committee consider extending the period between renewals from 10 to as much as 20 years due to the length of time required to establish and develop his business. He added that some of the financing he had obtained had been granted over a 20-year term, and a lease renewal timeline could more closely align with available funding vehicles to result in more surety on the part of investors. He added that the public has avenues to voice displeasure or claims of negligent behavior on the part of farmers through Alaska Department of Fish & Game and suggested that he was ambivalent to the public comment component of the renewal process. He added that he is currently due for renewal. He added that he had amended [his lease permit] three times since starting his business, and that each one had taken in excess of 24 months to complete, which he characterized as onerous. He supported adding ecotourism and education in the language of the bill since he had been required to hold two leases to both farm and bring visitors to the farm.

CHAIR TARR commended the value of Mr. Sande's testimony to the committee to aid in its understanding of the experience of the farmers.

[12:00:25 PM](#)

MARKOS SCHEER, President, Premium Aquatics, testified in support of HB 115 in his role as a kelp farmer in Ketchikan. He explained that he has spent approximately six years engaged in the development of the business. He stated that creditors are quick to ask for the term of the lease, which may not align with the length credit note available.

[HB 115 was held over.]

12:02:42 PM

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 12:02 p.m.